

## **AB 982 Public Advisory Group**

March 3, 2000

### **SWRCB's Approach for Addressing Clean Water Act Section 303(d) Issues**

This is an initial list of issues for addressing the requirements of AB 982. The list should not be considered to be all the issues that must be address in implementing Section 303(d). At this early stage it is essential that every PAG member have an opportunity to put the "big" issues on the table. The issues are organized under four headings: monitoring, listing, consistent Total Maximum Daily Load (TMDL) process, and consistent TMDL elements.

#### **Monitoring**

Objectives: The goal of monitoring programs must be explicitly stated: to achieve and implement existing water quality standards.

Confirmation of Impairment (including update and confirmation of beneficial use determination)

Monitoring protocols must be designed to elicit information without regard to the implications for fixing any problem identified. We need to reverse the "if you don't look, you won't find pollution" attitude that has been pervasive.

Establishment of Minimum Data Requirements

#### **Listing**

Listing / Delisting Criteria

Consistency of data needs to get on or off the list

Priority Ranking within Watersheds

#### **Consistent TMDL Process**

TMDL Pace: The state does not have a program that guarantees that all TMDLs in the State will be complete within a reasonable time-frame. This is essential. The time periods that are acceptable have been identified nationally.

Adaptive Management Process: Provides flexibility to adjust the TMDL and implementation components without legal risk

Implementation: TMDLs should not be subject to long implementation periods. Some amount of time for implementation at times will be necessary, as with some major permit changes, but TMDLs are

action-oriented and already long overdue. The sort of time periods currently in the State's draft Inland Basin Plan are flatly unacceptable.

#### Multi-Jurisdictional Coordination of Agencies and Regions

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#### Interim Permit Limits Pending TMDL Adoption

#### Economic Impact Analysis / Environmental Benefits Analysis

#### Peer Review

TMDL Enforceability: It is essential that TMDLs be enforced and enforceable.

### **Consistent TMDL Elements**

#### TMDL Guidelines and Schedule

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#### Waste Load Allocation

- Methods (data/model/best professional judgement?)
- Establishment of linkage between water quality control measures, water quality impairment and expected benefits

#### How to Address Point/Non-Point/Historical Sources

- Source identification
- Watershed Management Approach

“Watershed management” is not an excuse to delay TMDLs or to do a “TMDL-Lite” (i.e., a non-enforceable TMDL or one that delays implementation because of ongoing “watershed management”).

Legal Requirements: The Porter-Cologne Act does not govern TMDLs. There is no step of a legitimate TMDL that considers “economic impact,” although it is possible that such matters could be considered in deciding how to allocate any allowable load among contributing sources (i.e., less expensive allocation schemes may be favored over more expensive ones, all other factors being equal).